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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/579,002	05/25/2000	Christopher E. Pearce	062891.0407	7458

7590 01/10/2005  
Baker Botts LLP  
2001 Ross Avenue  
Dallas, TX 75201-2980

EXAMINER
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HOM, SHICK C

ART UNIT	PAPER NUMBER
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2666

DATE MAILED: 01/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/579,002	PEARCE ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Shick C Hom	2666	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 July 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-78 is/are pending in the application.
- 4a) Of the above claim(s) 5, 21, 40, 54, 67 and 74 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 36-65 is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-11, 17-20, 22-24, 66, 68, 73 and 75 is/are rejected.
- 7) ☒ Claim(s) 12-16, 25-35, 69-72 and 76-78 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>8/12/04</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 1-78 have been considered but are moot in view of the new ground(s) of rejection.

In page 23 lines 7-10 of the response, applicants indicated an update to the status information of the applications listed on page 1 of the application; however no update have been found in the response.

### ***Specification***

2. The disclosure is objected to because of the following informalities: in page 1, update status of related applications. Appropriate correction is required.

3. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

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***Claim Objections***

4. Claim 18 is objected to because of the following informalities: in claim 18 line 3 delete "device" and insert --  
-devices--- as in claim 17 line 5, for consistency. Appropriate correction is required.

5. Claims 1-2, 17-18, 66 and 75 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 3, and 33-34 of U.S. application no. 09/579,331. Although the conflicting claims are not identical, they are not patentably distinct from each other because of the following:

For claims 1-2, 17-18, 66 and 75, the claims 1, 3, and 33-34 of copending U.S. application no. 09/579,331 disclose a method for call routing, comprising: receiving a call request at a first call manager from a first telephony device coupled to a packet-based network, the call request including a telephone number associated with a second telephony device; accessing a route list associated with the telephone number to determine a port of a gateway device operable to transmit the call request to the second telephony device, wherein the route list comprises one or more route groups, each route group including a list of

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one or more ports of one or more gateway devices; and  
communicating the call request to a second call manager  
controlling the gateway device included in the route list (see  
claim 1);

further comprising: accessing a registration information  
table to determine a process identification (PID) of a route  
list control process executed by the first call manager and  
associated with the telephone number; and communicating the call  
request to the route list control process using the PID, the  
route list control process operable to access the route list  
(see claim 3).

Claims 33-34 of copending application 09/579,331 disclose a  
call manager software embodied in a computer-readable medium and  
operable to perform the following steps: receive a call request  
from a first telephony device coupled to a packet-based network,  
the call request including a telephone number associated with a  
second telephony device; access a route list associated with the  
telephone number to determine a port of a gateway device  
operable to transmit the call request to the second telephony  
device, wherein the route list comprises one or more route  
groups, each route group including a list of one or more ports  
of one or more gateway devices; and communicate the call request

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to a second call manager software controlling the gateway device included in the route list (see claim 33);

further operable to: access a registration information table to determine a process identification (PID) of a route list control process executed by the first call manager software and associated with the telephone number; and communicate the call request to the route list control process using the PID, the route list control process operable to access the route list (see claim 34).

For claims 1-2, 17-18, 66 and 75, the application's claims 1 and 17 merely broaden the scope of the U.S. application no. 09/579,331 claims 1 and 3 by eliminating the step of accessing a route list associated with the telephone number to determine a port of a gateway device operable to transmit the call request to the second telephony device, wherein the route list comprises one or more route groups, each route group including a list of one or more ports of one or more gateway devices as in claims 1 and 3. The application's claims 2 and 18 merely broaden the scope of U.S. application no. 09/579,331 claim 2 by eliminating the non-IP telephony device. Likewise, the application's claims 66 and 73 merely broaden the scope of U.S. application no. 09/579,331 claims 33-34 by eliminating the access a route list associated with the telephone number to determine a port of a

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gateway device operable to transmit the call request to the second telephony device, wherein the route list comprises one or more route groups, each route group including a list of one or more ports of one or more gateway devices. It has been held that the omission of a element and its function is an obvious expedient if the remaining elements perform the same function as before. In re Karlson, 136 USPQ (CCPA). Also note Ex parte Rainu, 168 USPQ 375 (Bd. App. 1969); omission of a reference element whose function is not needed would be obvious to one skilled in the art.

6. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

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***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary.

Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

9. Claims 1-4, 6-11, 17-20, 22-24, 66, 68, 73, and 75 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kung et al. (6,570,855) in view of Kagawa (6,574,012).

Regarding claims 1, 17, 66, and 73:



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Kung et al. disclose the method for routing calls in a packet-based network (in Fig. 2, see router 210 and packet-based network 120), comprising: receiving a call request at a first call manager from a device coupled to the packet-based network, the call request including a telephone number associated with a plurality of telephony devices coupled to the packet-based network and controlled by a plurality of call managers (see Fig. 5 and col. 25 line 43 to col. 28 line 2 which recite the call manager CM receiving a call including the dialed digits, i.e. telephone number); determining a device process controlling each telephony device associated with the telephone number included in the call request (see col. 10 line 53 to col. 11 line 5 which recite the databases used by the call manager to identify resources connected to the network including determining whether the telephone number is authorized for the services); and communicating the call request from the line control process to the device processes (see col. 15 line 35 to col. 16 line 19 which recite the call manager communicating with the multi-media gateway and/or the customer premise equipment for authorizing the call clearly reads-on communicating the call request to the device processes) as in claims 1, 17, 66, 73; further Kung et al. in col. 30 lines 17-26 recite the call manager being software as in claim 66.

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Regarding claims 2 and 18:

Kung et al. disclose wherein the packet-based network comprises an Internet Protocol (IP) network; and the plurality of telephony devices comprise IP telephony devices (see col. 3 lines 23-35 which recite IP telephony).

Regarding claims 3 and 19:

Kung et al. disclose wherein receiving a call request at the first call manager from the device coupled to the packet-based network comprises receiving the call request from a telephony device coupled to the packet-based network (in Fig. 2, see the telephony device coupled to the packet-based network and in Fig. 5, see the received call request at the call manager 218 from the telephony device 300).

Regarding claims 4 and 20:

Kung et al. disclose wherein receiving a call request at the first call manager from the device coupled to the packet-based network comprises receiving a call request from a gateway device coupled to the packet-based network, the gateway device receiving the call request from a telephony device external to the packet-based network (in Fig. 5 see gateway 300).

Regarding claims 6, 22, 68, and 75:

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Kung et al. disclose wherein communicating the call request to the line control process comprises communicating the call request to a line control process executing at a second call manager (see col. 2 lines 1-29 which recite the second call manager).

Regarding claims 8 and 23:

Kung et al. disclose wherein communicating the call request from the line control process to the device processes comprises communicating the call request to the device processes in parallel (see col. 16 line 54 to col. 17 line 4 which recite the calls being multiplexed clearly reads-on communicating in parallel).

Regarding claims 9 and 24:

Kung et al. disclose wherein communicating the call request from the line control process to the device processes comprises communicating the call request to the device processes in series (see col. 21 line 31 to col. 22 line 5 which recite the analog interface, POT interface, and Ethernet connection clearly reads-on communicating in series).

Regarding claim 10:

Kung et al. disclose further comprising: communicating the call request from a device process to the telephony device controlled by the device process; receiving a call proceed

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signal from the telephony device indicating acceptance of the call request; and communicating the call proceed signal from the device process to the line control process (see Fig. 5 call proceeding signal).

Regarding claim 11:

Kung et al. disclose further comprising establishing media streaming between the device from which the call request was received and the telephony device from which the call proceed signal was received (see col. 13 lines 10-27 which recite multi-media data streaming).

For claims 1, 7, 17, 66, and 73, Kung et al. disclose all the subject matter of the claimed invention with the exception of accessing a registration information table to determine a process identification (PID) of a line control process associated with the telephone number included in the call request; communicating the call request to the line control process using the PID.

Kagawa from the same or similar fields of endeavor teach that it is known to provide the step of accessing a registration information table to determine a process identification (PID) of a line control process associated with the telephone number included in the call request; communicating the call request to the line control process using the PID (see col. 3 line 59 to

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col. 4 line 30 which recite the call including the step of using the telephone number, referencing the identification number registration table, and notifying the reception side apparatus of the rates to make the communication). Thus, it would have been obvious to the person having ordinary skill in the art at the time the invention was made to provide the step of accessing a registration information table to determine a process identification (PID) of a line control process associated with the telephone number included in the call request; communicating the call request to the line control process using the PID as taught by Kagawa in the communications method and call manager of Kung et al. The step of accessing a registration information table to determine a process identification (PID) of a line control process associated with the telephone number included in the call request; communicating the call request to the line control process using the PID can be implemented by providing the identification number registration table of Kagawa in the call manager of Kung et al. The motivation for using the identification number registration table as taught by Kagawa in the communication method and call manager of Kung et al. being that it provides the added feature of selecting and determining the symbol rates or communication speed for line condition in the system of Kunget et al.

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***Allowable Subject Matter***

10. Claims 36-65 are allowed.

11. Claims 12-16, 25-34, 69-72, and 76-78 would be allowable if rewritten to include all of the limitations of the base claim and any intervening claims.

***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Shenoda et al. disclose public switched telephone network call routing using dynamic asynchronous mode transfer bearer voice trunking.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shick C Hom whose telephone number is 571-272-3173. The examiner can normally be reached on Monday to Friday with alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema Rao can be reached on 571-272-3174. The fax phone number for the

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organization where this application or proceeding is assigned is 703-872-9306..

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SH



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PRIMARY EXAMINER